

Daryl Fallas
77 Parker Avenue
Deal, NJ 07723
732-539-9025

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
RECEIVED

2012 OCT 12 AM 11 36

October 11, 2012

Clerk, U.S. District Court
402 E. State Street, Room 2020
Trenton, NJ 08608

Re: Case Name: FALLAS v. SCHACHTER PORNOY, LLC / CAVALRY SPV I,
LLC
Case Number: 3:12-cv-05664-PGS-DEA

Dear Clerk:

Please file the attached **RESPONSE TO DEFENDANT CAVALRY SPV I, LLC'S
OPPOSITION TO PLAINTIFF'S MOTION TO REMAND.**

Please call me at the above number with any questions or concerns.

Thank you.

Very truly yours,



Daryl Fallas
Plaintiff (PRO SE)

Re: Case Name: FALLAS v. SCHACHTER PORNOY, LLC / CAVALRY SPV I, LLC
Case Number: 3:12-cv-05664-PGS-DEA

RESPONSE TO DEFENDANT CAVALRY SPV I, LLC'S OPPOSITION TO PLAINTIFF'S MOTION TO REMAND

This Court lacks jurisdiction in this matter for the reasons already stated along with evidence provided this Court in previous filings and supplied in this response as well, attached hereto as follows:

FACTS

1. According to Schachter Portnoy, LLC's collection letter to me dated November 14, 2011, Cavalry SPV I, LLC retained Schachter Portnoy, LLC as their attorney. Attached hereto as Exhibit "A".

2. As their attorney, Schachter Portnoy, LLC had the legal right to collect money and handle all aspects of the account in question; including receiving legal documents. Exhibit "A" directs me to make check payable to their Attorney Trust Account.

3. The Summons clearly shows those to be served as Schachter Portnoy, LLC and Cavalry SPV I, LLC and was filed in the Sheriff's office on July 13, 2012. Attached hereto as Exhibit "B".

4. The Sheriff's Deputy first attempted service on July 19, 2012 but was told by the gardener that they moved. Attached hereto as Exhibit "C".

5. After my obtaining their exact location from their local post office and relaying it to the Deputy, two identical copies of Summons and Complaint were served, one copy each for Schachter Portnoy, LLC and Cavalry SPV I, LLC, to the office of record, as on their collection letter, of Schachter Portnoy, LLC on July 25, 2012. Both attached as Exhibit "D". I can only guess as to why the Sheriff's Department wrote down that it was served to Cavalry Portfolio Services, but it clearly shows the Defendant is Cavalry SPV I, LLC in the heading and it's obvious the Summons they served was to Cavalry SPV I, LLC; proof of which is Exhibit "B".

6. I subsequently learned about the TAN and noticed I did not receive one by the court. I contacted the court to asked the clerk about it. She informed me it was clerical error. They finally created one, filed it on August 16, 2012 and sent me a copy. Attached as Exhibit "E".

7. I received the TAN from the court and mailed it to the Sheriff's Department with instructions for service on August 20, 2012. Attached as Exhibit "F" with proof of mailing marked Exhibit "G".

8. Service of TAN was made on both Cavalry SPV I, LLC and Schachter Portnoy, LLC on August 23, 2012. Attached as Exhibits "H"

9 As for Defendant Cavalry SPV I, LLC's claim that only this Court has jurisdiction over claims concerning the FDCPA, it specifically states the following:

§ 813. Civil liability [15 USC 1692k]

(d) An action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.

CONCLUSION

I respectfully submit to this Honorable Court that it lacks jurisdiction in the subject matter of this case for reasons previously submitted in addition to the aforementioned stated facts which directly contradicts Defendant Cavalry SPV I, LLC's facts in their Brief in Opposition to Plaintiff's Motion to Remand and respectfully request this case be immediately remanded to the originating state court.

I certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are intentionally false, I am subject to punishment.

Dated: 10-11-12

Signed: _____



Daryl Fallas (pro se)

SCHACHTER PORTNOY, L.L.C.

ATTORNEYS AT LAW

3490 U.S. ROUTE 1

PRINCETON, NJ 08540

TEL: (888) 454-3111 (609) 514-0999

FAX: (609) 514-1599

STEVEN I. GREENBERG

KAPEIL MISIR*

KORTNEY SWANSON DAVIS

CRAIG FAYE▼

HOWARD SCHACHTER*

DARIN S. PORTNOY**

SUSAN G. STEINMAN**^o

Of Counsel

*ALSO ADMITTED IN NY

°ALSO ADMITTED IN PA

▫ALSO ADMITTED IN OR & WA

▼ONLY ADMITTED IN NY

November 14, 2011

DARYL FALLAS
77 PARKER AVE
DEAL NJ 07723-1238

Re: Our Client/Creditor: CAVALRY SPV I, LLC, as assignee of MBNA/FIA CARD SERVICES, N.A.

Amount of Debt: \$5,648.97 as of above date

Our File Number: G1107327

Dear DARYL FALLAS:

This law firm has been retained by the above-named creditor to collect the outstanding balance on your account. Our client requests that you send payment in full. Please make your check payable to Schachter Portnoy, LLC Attorney Trust Account and send payment to Schachter Portnoy, LLC, 3490 US Route 1, Princeton, New Jersey 08540. If you cannot send payment in full, it is possible that a payment plan could be arranged. Please contact this office to make arrangements for payment.

Disclosure

You are hereby notified that this firm is acting as a debt collector in this matter. We are attempting to collect a debt and any information obtained will be used for that purpose. Unless within 30 days after your receipt of this notice, you dispute the validity of the debt or any portion thereof, we will assume the debt to be valid. If you notify us in writing within the 30-day period after your receipt of this notice that you dispute the debt, or any portion thereof, we will obtain verification of the debt, or if the debt is founded upon a judgment, a copy of the judgment, and a copy of such verification or judgment will be mailed to you by us. Upon your written request within 30 days after receipt of this notice, we will provide you the name and address of the original creditor, if different from the current creditor.

Very truly yours,

Steven I. Greenberg, Esq.
For the Firm

MMB a101a

EXHIBIT "A"

RECEIVED
SHERIFF'S OFFICE

JUL 13 2012

Attorney(s)	Daryl Fallas
Office Address	77 Parker Ave
Town, State, Zip Code	Deal, NJ 07723
Telephone Number	(732) 539-9025
Attorney(s) for Plaintiff	Daryl Fallas
Daryl Fallas	
Plaintiff(s)	
Vs.	
Cavalry SPV I, LLC	
Schachter Portnoy, LLC	
Defendant(s)	

MERCER COUNTY COURTHOUSE
TRENTON, NEW JERSEY
Superior Court of
New Jersey

Mercer COUNTY
Civil - Law DIVISION

Docket No: L-1632-12

**CIVIL ACTION
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

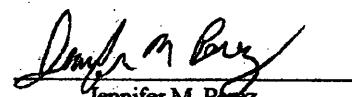
Dated: 7/12/12

 Jennifer M. Perez,
 Acting Clerk of the Superior Court
Name of Defendant to Be Served: Cavalry SPV I, LLC / Schachter Portnoy, LLCAddress of Defendant to Be Served: 3490 U.S. Route 1, Princeton, NJ 08540NOTE: The Case Information Statement is available at <http://www.njcourtsonline.com>

EXHIBIT "B"



Office of the Sheriff

Sheriff's Return Of Service

12003956

UNDERSHERIFFS
 JAMES P. TAYLOR
 DONALD E. ELLISON
 PEDRO MEDINA

ASSISTANT TO THE SHERIFF
 CATHLEEN G. GARTON

CHIEF SHERIFF'S OFFICER
 RICHARD S. PIOTROWSKI

CHIEF WARRANT OFFICER
 BRIAN D. AMANTIA

JOHN A. KEMLER
SHERIFF

MERCER COUNTY CIVIL COURT HOUSE
175 SOUTH BROAD STREET
P.O. Box 8068
TRENTON, NEW JERSEY 08650-0068
TELEPHONE: (609) 989-6100
FAX: (609) 278-8041



PLAINTIFF DARYL FALLAS

DOCKET # L-1632-12

DEFENDANT CAVALRY SPV I LLC

I SERVED THE FOLLOWING PAPERS: **SUMMONS & COMPLAINT** ON THE WITHIN-NAMED DEFENDANT IN MERCER COUNTY, NEW JERSEY

SERVICE NAME	SERVED	NOT-SERVED	DATE	TIME	ADDRESS	SERVICE INFO
SCHACHTER PORTNOY		I	7/19/12	1200	3490 ROUTE 1 PRINCETON, NJ 08540	

- * Type of Service
- A Personal Service
- B Household member over the age of 14 years, at usual place of abode
- C Served person authorized to accept service/Managing agent
- D Unable to locate, unknown at address given
- E Address Out of County
- F Avoiding service, made many attempts
- G Affixed
- H Certified Mail
- H Other *mailed*

STATE OF NEW JERSEY
 COUNTY OF MERCER
 I, JOHN A. KEMLER, SHERIFF
 of said County do hereby
 deputize and appoint

[Signature]
 to be my deputy, to execute and
 return the writ according to law.

Witness my hand and seal this 19
 day of July A.D. 2012.

JOHN A. KEMLER
 Sheriff (L.S.)

Sheriff's Fee \$24.00

JOHN A. KEMLER, SHERIFF, by

[Signature]
 Special Deputy

SC RReturn

EXHIBIT "C"

Office of the Sheriff

Sheriff's Return Of Service

12003956



JOHN A. KEMLER
SHERIFF

MERCER COUNTY CIVIL COURT HOUSE
175 SOUTH BROAD STREET
P.O. Box 8068
TRENTON, NEW JERSEY 08650-0068
TELEPHONE: (609) 989-6100
FAX: (609) 278-8041

UNDERSHERIFFS
JAMES P. TAYLOR
DONALD E. ELLISON
PEDRO MEDINA

ASSISTANT TO THE SHERIFF
CATHLEEN G. GARTON

CHIEF SHERIFF'S OFFICER
RICHARD S. PIOTROWSKI

CHIEF WARRANT OFFICER
BRIAN D. AMANTIA

PLAINTIFF DARYL FALLAS

DOCKET # L-1632-12

DEFENDANT CAVALRY SPV I LLC

I SERVED THE FOLLOWING PAPERS: **SUMMONS & COMPLAINT** ON THE WITHIN-NAMED DEFENDANT IN MERCER COUNTY, NEW JERSEY

SERVICE NAME	SERVED	NOT-SERVED	DATE	TIME	ADDRESS	SERVICE INFO
SCHACHTER PORTNOY	C		7/25/12	1056	3490 ROUTE 1 PRINCETON, NJ 08540	Darrin Portnoy atty

- * Type of Service
- A Personal Service
- B Household member over the age of 14 years, at usual place of abode
- C** Served person authorized to accept service/Managing agent
- D Unable to locate, unknown at address given
- E Address Out of County
- F Avoiding service, made many attempts
- G Affixed
- H Certified Mail
- I Other

STATE OF NEW JERSEY
COUNTY OF MERCER
I, JOHN A. KEMLER, SHERIFF
of said County do hereby
deputize and appoint

[Signature]
to be my deputy, to execute and
return the writ according to law.

Witness my hand and seal this 25
day of July A.D. 2012.

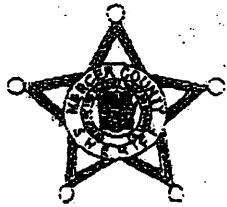
JOHN A. KEMLER
Sheriff (L.S.)

Sheriff's Fee \$24.00

JOHN A. KEMLER, SHERIFF, by

[Signature]
Special Deputy

Office of the Sheriff
Sheriff's Return Of Service



JOHN A. KEMLER
SHERIFF

MERCER COUNTY CIVIL COURT HOUSE
175 SOUTH BROAD STREET
P.O. Box 8068
TRENTON, NEW JERSEY 08650-0068
TELEPHONE: (609) 989-8100
FAX: (609) 278-8041

12003956

UNDERSHERIFFS
JAMES P. TAYLOR
DONALD E. ELLISON
PEDRO MEDINA

ASSISTANT TO THE SHERIFF
CATHLEEN G. GARTON

CHIEF SHERIFF'S OFFICER
RICHARD S. PIOTROWSKI

CHIEF WARRANT OFFICER
BRIAN D. AMANTIA

PLAINTIFF

DARYL FALLAS

DOCKET # L-1632-12

DEFENDANT

CAVALRY SPV I LLC

I SERVED THE FOLLOWING PAPERS: SUMMONS & COMPLAINT ON THE WITHIN-NAMED DEFENDANT IN MERCER COUNTY, NEW JERSEY

SERVICE NAME	SERVED	NOT-SERVED	DATE	TIME	ADDRESS	SERVICE INFO
CAVALRY PORTFOLIO SERVICES	C		7/25/12	1055	3490 ROUTE 1 PRINCETON, NJ 08540 St 6	Darrin Portney atty

STATE OF NEW JERSEY
COUNTY OF MERCER
I, JOHN A. KEMLER, SHERIFF
of said County do hereby
deputize and appoint

John A. Kemler
to be my deputy, to execute and
return the writ according to law.

Witness my hand and seal this 25
day of July A.D. 2012.

- * Type of Service
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- G Affixed
- H Certified Mail
- I Other

JOHN A. KEMLER
Sheriff (L.S.)

Sheriff's Fee \$24.00

JOHN A. KEMLER, SHERIFF, by

grah Special Deputy

SCRReturn

EXHIBIT D

MERCER COUNTY COURTHOUSE
CIVIL CASE MANAGEMENT OFFICE
175 SOUTH BROAD ST P O BOX 8068
TRENTON NJ 08650-0068

TRACK RE-ASSIGNMENT NOTICE

COURT TELEPHONE NO. (609) 571-4490
COURT HOURS

DATE: 1 AUG 16 2012
RE: FALLAS VS CAVALRY SPV I LLC AND SCHÄCHTER PORTNOY
DOCKET: MER L -001632 12

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON DOUGLAS H. HURD

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 050
AT: (609) 571-4432.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.

PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

DARYL FALLAS
77 PARKER AVE
DEAL NJ 07723

JUWWARO

EXHIBIT "E"

Daryl Fallas
77 Parker Avenue
Deal, NJ 07723
732-539-9025

August 20, 2012

Office of the Sheriff
Attn: Deborah
P.O. Box 8068
Trenton, NJ 08650

Re: Daryl Fallas v. Cavalry SPV I, LLC and Shachter Portnoy, LLC
Reference No.: 12-3956

Dear Deborah:

As per our phone conversation on August 2, 2012, enclosed are two copies of the TAN that was erroneously excluded by the court.

Please serve on the above defendants. As a reminder, it's Shachter Portnoy's offices in building #6 which is the first building on the right heading north.

Please feel free to call me at the above number with any questions or concerns.

Thank you.

Very truly yours,

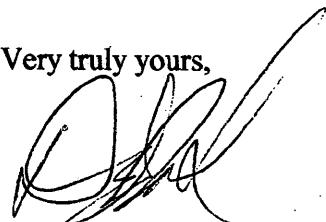

Daryl Fallas

EXHIBIT "F"

To Sheri Caury

=====
DEAL POST OFFICE
DEAL, New Jersey
077239998
3356870442-0097
08/20/2012 (732)531-0610 02:17:30 PM
=====

===== Sales Receipt =====

Product Description	Sale Unit Qty	Final Price
TRENTON NJ 08650 Zone-1 First-Class Letter	0.70 oz.	\$0.45
Issue PVI:		\$0.45
Total:		\$0.45

=====

Paid by:
MasterCard \$0.45
Account #: XXXXXXXXXXXX7085
Approval #: 048470
Transaction #: 738
23902921675

Order stamps at usps.com/shop or
call 1-800-Stamp24. Go to
usps.com/clicknship to print
shipping labels with postage. For
other information call
1-800-ASK-USPS.

Get your mail when and where you
want it with a secure Post Office
Box. Sign up for a box online at
usps.com/poboxes.

Bill#:1000300942348
Clerk:02

All sales final on stamps and postage
Refunds for guaranteed services only
Thank you for your business

HELP US SERVE YOU BETTER

Go to:
<https://postalexperience.com/Pos>

TELL US ABOUT YOUR RECENT
POSTAL EXPERIENCE

YOUR OPINION COUNTS

EXHIBIT G

Office of the Sheriff Sheriff's Return Of Service



**JOHN A. KEMLER
SHERIFF**

**MERCER COUNTY CIVIL COURT HOUSE
175 SOUTH BROAD STREET
P.O. Box 8068
TRENTON, NEW JERSEY 08650-0068
TELEPHONE: (609) 989-6100
FAX: (609) 278-8041**

UNDERSHERIFFS
JAMES P. TAYLOR
DONALD E. ELLISON
PEDRO MEDINA

**ASSISTANT TO THE SHERIFF
CATHLEEN G. GARTON**

**CHIEF SHERIFF'S OFFICER
RICHARD S. PIOTROWSKI**

**CHIEF WARRANT OFFICER
BRIAN D. AMANTIA**

PLAINTIFF DARYL FALLAS
DEFENDANT CAVALRY SPV I

DOCKET # L-1632-12

I SERVED THE FOLLOWING PAPERS: **SUMMONS & COMPLAINT** ON THE WITHIN-NAMED DEFENDANT IN MERCER COUNTY, NEW JERSEY

SERVICE NAME	SERVED	NOT-SERVED	DATE	TIME	ADDRESS	SERVICE INFO
CAVALRY PORTFOLIO SERVICES	C		8-23-12	1327	3490 ROUTE 1 PRINCETON, NJ 08540	Jenk Schafer

STATE OF NEW JERSEY
COUNTY OF MERCER
I, JOHN A. KEMLER, SHERIFF
of said County do hereby
deputize and appoint

to be my deputy, to execute and return the writ according to law.

Witness my hand and seal this

day of 10 S. A.D. 2012.

- * Type of Service
- A Personal Service
- B Household member over the age of 14 years, at usual place of abode
- C Served person authorized to accept service/Managing agent
- D Unable to locate, unknown at address given
- E Address Out of County
- F Avoiding service, made many attempts
- G Affixed
- H Certified Mail
- I Other

JOHN A. KEMLER
Sheriff (L.S.)

Sheriff's Fee \$24.00

JOHN A. KEMLER, SHERIFF, by

Special Deputy

EXHIBIT (H)

Office of the Sheriff

Sheriff's Return Of Service

12003956



JOHN A. KEMLER
SHERIFF



MERCER COUNTY CIVIL COURT HOUSE
175 SOUTH BROAD STREET
P.O. Box 8068
TRENTON, NEW JERSEY 08650-0068
TELEPHONE: (609) 989-6100
FAX: (609) 278-8041

UNDERSHERIFFS
JAMES P. TAYLOR
DONALD E. ELLISON
PEDRO MEDINA

ASSISTANT TO THE SHERIFF
CATHLEEN G. GARTON

CHIEF SHERIFF'S OFFICER
RICHARD S. PIOTROWSKI

CHIEF WARRANT OFFICER
BRIAN D. AMANTIA

PLAINTIFF DARYL FALLAS

DOCKET # L-1632-12

DEFENDANT CAVALRY SPV I LLC

I SERVED THE FOLLOWING PAPERS: **SUMMONS & COMPLAINT** ON THE WITHIN-NAMED DEFENDANT IN MERCER COUNTY, NEW JERSEY

SERVICE NAME	SERVED	NOT-SERVED	DATE	TIME	ADDRESS	SERVICE INFO
SCHACHTER PORTNOY	C		8-23-12	1327	3490 ROUTE 1 BUILDING #6 PRINCETON, NJ 08540	Jan Schacter

- * Type of Service
- A Personal Service
- B Household member over the age of 14 years, at usual place of abode
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- E Address Out of County
- F Avoiding service, made many attempts
- G Affixed
- H Certified Mail
- I Other

STATE OF NEW JERSEY
COUNTY OF MERCER
I, JOHN A. KEMLER, SHERIFF
of said County do hereby
deputize and appoint
to be my deputy, to execute and
return the writ according to law.

Witness my hand and seal this 23
day of Aug A.D. 2012.

JOHN A. KEMLER
Sheriff (L.S.)

Sheriff's Fee \$24.00

JOHN A. KEMLER, SHERIFF, by

John Kemler Special Deputy

EXHIBIT H

Daryl Fallas
77 Parker Avenue
Deal, NJ 07723



Clerk, U.S. District Court
402 E. State Street, Room 2020
Trenton, NJ 08608

RECEIVED
U.S. DISTRICT COURT
NEW JERSEY
OCT 12 2012
DEAL, NJ